S.B.Civil Writ Petition No.372/2003

Satya Narayan Khati. vs. State of Raj. and others.

Date : 12.7.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.MS Singhvi, for the petitioner.
Mr.JL Purohit, for the respondent no.4.

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Heard learned counsel for the parties.

The writ petition of the petitioner deserves to be allowed only on the ground that an order passed in revision under Section 300 of the Rajasthan Municipalities Act, 1959 (for short 'the Act of 1959') was set aside by the Hon'ble Minister concerned by exercising the revisional powers only.

The contention of the petitioner is that the order passed in revision cannot be challenged by filing revision under the Act of 1959 and that is the position of law for which there is no dispute. Since the patta in question was granted under the provisions of Act of 1959 and that was challenged by the respondent and the matter was pending before the Director, Local Bodies. The Director, Local Bodies was of the view that since

the matter is pending before the Civil Court and since there is an injunction order passed by the Civil Court, therefore, at this stage, no order can be passed and the file was consigned to record. By this order, the Director, Local Bodies also observed that the respondent will be free to move revision under the Act of 1959 again after the decision of the Civil Court. This order of the Director passed under Section 300 of the Act of 1959 dated 12.7.2002 was challenged before the Hon'ble Minister of the Local Self Government who vide order dated 23.11.2002 set aside the order of the Director, Local Bodies dated 12.7.2002 as well as patta granted to the petitioner. As stated above, the second revision petition was not maintainable, therefore, the order dated 23.11.2002 deserves to be quashed, hence, quashed.

Consequently, this writ petition is allowed.

The respondent will now be free to take appropriate steps under Section 300 of the Act of 1950 provided the matter has not been decided against the respondent by the Civil Court.

(PRAKASH TATIA), J.

S.Phophaliya